

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

CITIZENS FOR RESPONSIBILITY AND ETHICS
IN WASHINGTON,



Plaintiff,

v.

UNITED STATES DEPARTMENT OF JUSTICE,
950 Pennsylvania Avenue NW
Washington, DC 20305

Defendant.

Case No. _____

COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

1. Plaintiff Citizens for Responsibility and Ethics in Washington (“CREW”) brings this action under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, against Defendant U.S. Department of Justice (“DOJ”) seeking records, opinions, memorandum, and analyses from the Office of Legal Counsel (“OLC”) relating to Section 1 of the Twenty-Second Amendment to the U.S. Constitution.

2. CREW seeks declaratory relief that the DOJ is in violation of FOIA. CREW further seeks injunctive relief requiring the DOJ to immediately process and release the requested records.

Jurisdiction and Venue

3. This Court has subject-matter jurisdiction and personal jurisdiction under 5 U.S.C. §§ 552(a)(4)(B) and 552(a)(6)(C)(i). The Court also has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 2201(a), and 2202.

4. Venue lies in this district under 5 U.S.C. § 552(a)(4)(B).

Parties

5. Plaintiff CREW is a non-profit, non-partisan organization organized under section 501(c)(3) of the Internal Revenue Code. CREW is committed to protecting the rights of citizens to be informed about the activities of government officials and agencies, and to ensuring the integrity of government officials and agencies. CREW seeks to empower citizens to have an influential voice in government decisions and in the government decision-making process through the dissemination of information about public officials and their actions. To advance its mission, CREW uses a combination of research, litigation, and advocacy. As part of those efforts, CREW uses government records it obtains under FOIA.

6. Defendant DOJ is an agency within the meaning of 5 U.S.C. § 552(f)(1). The Office of Legal Counsel is a component of the DOJ. The DOJ has possession, custody, and control of the requested records.

Legal Framework

7. FOIA, 5 U.S.C. § 552, requires federal agencies to release requested records to the public unless one or more specific statutory exemptions apply.

8. An agency must respond to a party making a FOIA request within 20 working days, notifying that party of at least the agency's determination of which the requested records it will release, which it will withhold and why, and the requester's right to appeal the determination to the agency head. 5 U.S.C. § 552(a)(6)(A)(i).

9. An agency's failure to make a determination to a FOIA request or appeal within 20 working days is subject to judicial review without exhausting administrative remedies. 5 U.S.C. § 552(a)(6)(C)(i). In "unusual circumstances," an agency may extend the time to respond to a request by no more than 10 working days provided that the agency gives the requester

written notice setting forth the unusual circumstances and the date on which the agency expects to make a determination. 5 U.S.C. § 552(a)(6)(B)(i)-(iii).

Factual Background

CREW'S FOIA Request

10. President Donald Trump served his first term as President from January 2017 to January 2021. He was re-elected in November 2024 and was inaugurated into office for the second time on January 20, 2025.

11. Section 1 of the Twenty-Second Amendment provides that “[n]o person shall be elected to the office of the President more than twice.” U.S. Const. amend. XXII, § 1.

12. Despite the Twenty-Second Amendment, President Trump has repeatedly suggested that he may be able to serve an additional term as President.¹

13. Given the President’s statements, the question of whether the Twenty-Second Amendment renders him ineligible to serve another term as President is of great public importance.

14. As the DOJ office charged with providing legal advice to the President and all executive branch agencies, OLC’s views on this subject carry great weight.

15. On March 18, 2025, CREW submitted a FOIA request to the DOJ Office of Legal Counsel seeking “all opinions, memoranda, or analyses issued by the Office of Legal Counsel (“OLC”) concerning Section 1 of the Twenty-Second Amendment.” Exhibit A.

¹ See e.g., Neil Vigdor, *No, Trump Cannot Run for Re-election Again in 2028*, N.Y. Times (Apr. 24, 2025), <https://www.nytimes.com/article/trump-third-term-2028-constitution.html>; Maggie Haberman, *Trump Muses About a Third Term, Over and Over Again*, N.Y. Times (Feb. 10, 2025), <https://www.nytimes.com/2025/02/10/us/politics/trump-third-term.html>; Catie Edmondson et al., *Trump Meets With Jubilant House G.O.P. and Jokes About a Third Term*, N.Y. Times (Nov. 13, 2024), <https://www.nytimes.com/2024/11/13/us/politics/trump-house-elon-musk.html>.

16. CREW's FOIA request explained that "it is in the best interest of the public to access any documents and memorandum that provide further clarification and guidance as to where the bounds lie." *Id.*

17. CREW's request sought a fee waiver. *Id.*

18. On March 26, 2025, OLC acknowledged receipt of CREW's FOIA request, assigned tracking number FY25-191. It wrote that, in addition to assigning the request to the "simple" processing track, "[b]ecause of the considerable number of FOIA requests received by OLC prior to your request, we have not yet been able to process your request. Accordingly, we likely will be unable to comply with the statutory deadline for responding to your request." *Id.*

19. To date, CREW has not received a determination on its FOIA request to OLC.

PLAINTIFF'S CLAIM FOR RELIEF

Wrongful Withholding of Records Responsive to CREW's FOIA Request

20. CREW re-alleges and incorporates by reference all preceding paragraphs.

21. In its March 18, 2025 FOIA request, CREW properly asked for records within the possession, custody, and control of the DOJ.

22. The DOJ is wrongfully withholding records responsive to CREW's FOIA request.

23. The DOJ has failed to conduct an adequate search in response to CREW's FOIA request.

24. By failing to timely release all requested records in full to CREW, the DOJ is in violation of FOIA.

25. CREW has constructively exhausted its administrative remedies.

26. CREW is therefore entitled to injunctive and declaratory relief requiring immediate processing and disclosure of the requested records.

Requested Relief

WHEREFORE, Plaintiff respectfully requests that this Court:

- (1) Order Defendant to immediately and fully process CREW's FOIA request and disclose all non-exempt records to CREW;
- (2) Declare that CREW is entitled to immediate processing and disclosure of the requested records;
- (3) Provide for expeditious proceedings in this action;
- (4) Retain jurisdiction of this action to ensure no agency records are wrongfully withheld and ensure compliance with this Court's orders;
- (5) Award CREW its costs and reasonable attorneys' fees in this action; and
- (6) Grant such other relief as the Court may deem just and proper.

Date: April 30, 2025

Respectfully Submitted,

/s/ Nikhel S. Sus

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**Pro Hac Vice* Motion Forthcoming

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